

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SERGIO GONZALEZ-GUZMAN,

Petitioner,

Case No. C15-1867-RSL

V.

JEFFERY A. UTTECHT,

### Respondent.

**ORDER GRANTING PETITIONER'S  
MOTION TO DISMISS**

On August 26, 2015, Petitioner Sergio Gonzalez-Guzman filed a *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2254 with the United States District Court for the Eastern District of Washington. (Dkt. # 1.) On November 17, 2015, the case was transferred to this Court because Petitioner was seeking to challenge a King County Superior Court judgment. ¶ 9.) After the case arrived in this District, counsel was appointed to represent Petitioner. A deadline was established for Petitioner’s newly appointed counsel to file an amended petition. (Dkt. # 14.) Prior to filing an amended petition, Petitioner’s counsel moved to stay and petitioner’s federal habeas proceedings pending completion of anticipated state court proceedings. (Dkt. # 17.)

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The Court thereafter ordered that Petitioner’s original petition and his motion to stay and abey be served on Respondent, and that Respondent file a response only to Petitioner’s motion to stay and abey. (Dkt. # 18.) Respondent indicated in his response to Petitioner’s motion that he did not oppose the requested stay and, on July 1, 2016, the Court issued an Order granting the motion and staying this action pending completion of Petitioner’s state court collateral proceedings. (Dkt. ## 22, 23.) Petitioner was subsequently directed to file a report every 180 days advising the Court of the status of his state court proceedings. (Dkt. # 25.)

On April 30, 2019, the Court received from Petitioner a status report and motion to dismiss his federal habeas petition. (Dkt. # 29.) Petitioner’s counsel explains therein that Petitioner’s conviction was vacated by the King County Superior Court on September 20, 2018 and a new trial date was set. (*Id.*) However, Petitioner has since been deported and is therefore unavailable to be brought to court for trial. (*Id.*) Counsel further explains that the Washington Court of Appeals has issued a mandate terminating its involvement in the case and it thus appears that Petitioner’s habeas petition is moot. (*Id.*)

Though Petitioner's federal habeas petition was served on Respondent, Respondent has never filed an answer or other responsive pleading. It is therefore appropriate to treat Petitioner's motion as a request for voluntary dismissal and to terminate this action without seeking a response from Respondent. Accordingly, Petitioner's motion to dismiss (dkt. # 29) is GRANTED and this federal habeas action is DISMISSED without prejudice.

DATED this 23<sup>rd</sup> day of May, 2019.

Robert S. Lasnik  
Robert S. Lasnik  
United States District Judge

1 Recommended for Entry this  
2 23rd day of May, 2019.

3 s/Michelle L. Peterson  
4 MICHELLE L. PETERSON  
5 United States Magistrate Judge

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